

Notice of Allowability

Application No.

10/079,283

Examiner

Greg F. Cunningham

Applicant(s)

FEDOROVSKAYA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment received 3/7/2007.
2. ☒ The allowed claim(s) is/are 4-7 and 9.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. This action is responsive to amendment filed 3/07/2007.
2. The disposition of the claims is as follows: claims 4-7 and 9 are pending in the application. Claim 9 is the only independent claim. Claims 1-3, 8 and 10 have been cancelled.

Claim Rejections - 35 USC § 103

3. In view of amended and cancelled claims and review of cited references and Applicant's remarks, 103 rejections are withdrawn.

Examiner's Amendment

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Raymond L. Owens (Reg. No.: 22,363) on 5/04/2007.

The application has been amended as follows:

Claims 11-20 are cancelled.

Allowable Subject Matter

5. Claims 4-7 and 9 are allowed.
6. The following is an examiner's statement of reasons for allowance:

Applicant's amended independent claim 9 stands novel over the related prior art. For instance, per Applicant's remarks, Forest teaches interactive displays and interactive display methods for use by persons lacking normal motor skills. In particular, an operator selects a letter by pointing to an image on a display and the pointing time is monitored to see if it exceeds a predetermined time. Forest does not relate or provide any motivation for a user capturing digital images and says nothing about storing metadata indicating the degree of interest for each of the still digital images in their respective digital image files, nor using the metadata to assist in retrieving the still digital images.

Fernandes teaches interactive an electronic commerce apparatus and method. In particular, site pages visited storage 318 may record all web pages on a website that have been visited by a particular user, and may include the dwell time for the particular consumer on each web page. Fernandes does not relate or provide any motivation for a user capturing digital images and says nothing about storing metadata indicating the degree of interest for each of the still digital images in their respective digital image files, nor using the metadata to assist in retrieving the still digital images. Fernandes does teach storing dwell time in site pages visited storage 318, but this dwell time is not stored in the same file that produces the web page to which it relates. Furthermore, the web page is not the equivalent of a still digital image captured by a user. The user or viewer of the web pages does not capture any still digital images.

Turnbull teaches a search and recommendation system employing preferences and profiles of individual users and groups. In particular, items, domains or other objects are assigned a preferred status on the basis of user relevance criteria including dwell time within a link.

Turnbull does not relate or provide any motivation for a user capturing digital images and says

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nothing about storing metadata indicating the degree of interest for each of the still digital images in their respective digital image files, nor using the metadata to assist in retrieving the still digital images. Turnbull does teach monitoring dwell time within a link, but this dwell time is not stored in the same file that produces the web page to which it relates. Furthermore, the web page is not the equivalent of a still digital image captured by a user. The user or viewer of the web pages does not capture any still digital images.

Trubey teaches a networked system for merchandising products to users who access the network via a browser. In particular, one of the statistics used when prioritizing pages to be merchandised is "dwell time". Trubey does not relate or provide any motivation for a user capturing digital images and says nothing about storing metadata indicating the degree of interest for each of the still digital images in their respective digital image files, nor using the metadata to assist in retrieving the still digital images. Trubey's dwell time is not stored in the same file that produces the web page to which it relates. Furthermore, the web page is not the equivalent of a still digital image captured by a user. The user or viewer of the web pages does not capture any still digital images.

Carcia teaches a system for altering selected digital images in accordance with selected sound characteristics. In particular, Carcia discloses a system that alters still digital images. As the Examiner notes, Carcia does not relate or provide any motivation for storing metadata indicating the degree of interest for each of the still digital images in their respective digital image files, nor using the metadata to assist in retrieving the still digital images. Carcia provides no motivation for combination with the other references since the other references do not relate to still digital images and Carcia as well as the other references cited by the Examiner provide no

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discussion of digital image files having metadata that relates to interest of a user.

Aoki relates to the rejection of dependent claim 5. Aoki teaches a data transmission method able to maintain the quality of a transmitted image. In particular, the face image in a region displayed on a monitor is cut out based on face position coordinates that have been previously transmitted.

Aoki does not provide any suggestion for the features discussed above with respect to claim 9.

Ventrella relates to the rejection of dependent claims 4 and 6. Ventrella teaches a method and apparatus for creating an avatar, which may include genes for facial features. Ventrella does not provide any suggestion for the features discussed above with respect to claim 9.

Lang relates to the rejection of dependent claim 7. As the Examiner points out, Lang on page 3, in note 2 relates to rating pleasantness by using facial features from an extreme frown to a broad smile. Lang does not provide any suggestion for the features discussed above with respect to claim 9.

Therefore as claimed by the combined elements of amended independent claim 9, the cited references and prior art of record lack separately and in combination the elements of amended claim. Claims 4-7 depend from allowable independent claim 9 and therefore are also allowed.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Responses

8. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires to fax a response, (703) 872-9306 may be used for formal communications.

Inquiries

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory F. Cunningham whose telephone number is (571) 272-7784.

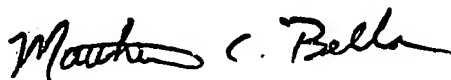
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Greg Cunningham

Examiner, Art Unit 2624



MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
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5/03/2007